

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1072

Short Title: Identity Theft.

(Public)

Sponsors: Senators Rand and Dannelly.

Referred to: Judiciary I.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE CRIME OF IDENTITY THEFT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new Article 19C to read as follows:

"ARTICLE 19C.
"IDENTITY THEFT.

"§ 14-113.18. Identity theft.

(a) Definition. – As used in this Article, 'identifying information' means an individual's name, address, telephone number, birth certificate, social security number, drivers license number, employer or place of employment, identification number assigned by the individual's employer, maiden name, mother's maiden name, checking or savings account numbers, credit or debit card numbers, personal or electronic identification numbers, digital signatures, or any other numbers or information that can be used to access an individual's financial resources.

(b) Offense. – A defendant who knowingly obtains, possesses, or uses personal identifying information of another person without the consent of that other person, with the intent to fraudulently represent that the defendant is the other person for the purpose of making financial or credit transactions in the other person's name or for the purpose of

1 avoiding legal consequences is guilty of a felony punishable as provided in subsection (c)
2 of this section.

3 (c) Criminal Penalties. – A violation of this section is a Class H felony except as
4 follows:

5 (1) If the victim suffers a financial loss as a proximate result of the offense
6 or if the defendant acquires credit, money, goods, services, or anything
7 else of value for any person as a proximate result of the offense and if
8 the value of the financial loss or of the thing acquired is at least five
9 thousand dollars (\$5,000) but less than one hundred thousand dollars
10 (\$100,000), then the violation is a Class G felony.

11 (2) If the victim suffers a financial loss as a proximate result of the offense
12 or if the defendant acquires credit, money, goods, services, or anything
13 else of value for any person as a proximate result of the offense and if
14 the value of the financial loss or of the thing acquired is one hundred
15 thousand dollars (\$100,000) or more, then the violation is a Class C
16 felony.

17 (3) If the victim suffers arrest, detention, or conviction as a proximate result
18 of the offense, then the violation is a Class G felony.

19 (4) If the victim is held liable for an infraction or loses driving privileges as
20 a proximate result of the offense, then the violation is a Class H felony.

21 (d) Civil Action. – Any person whose identifying information is fraudulently used
22 in violation of this section may institute a civil action to enjoin and restrain any violation
23 of this section and is entitled to civil damages of up to five thousand dollars (\$5,000) for
24 each violation of this section, or three times the amount of actual damages, if any,
25 sustained by the plaintiff, whichever amount is greater. The judge may award attorneys'
26 fees to the prevailing party.

27 (e) Investigation. – The Attorney General may investigate any complaint
28 regarding identity theft. In conducting such investigations, the Attorney General has all
29 the investigating powers that are available to the Attorney General under Article 1 of
30 Chapter 75 of the General Statutes.

31 (f) Prosecutions. – The Attorney General may conduct the criminal prosecution of
32 all cases of identity theft or refer them to the district attorney in the county where the
33 crime was committed.

34 (g) Venue of Offense. – In any criminal proceeding brought pursuant to this
35 Article, the crime shall be considered to have been committed in any county in which any
36 part of the identity theft, possession, or use took place, regardless of whether the
37 defendant was ever actually in that county.

38 (h) Restitution. – In addition to being imprisoned, a person found guilty of identity
39 theft under this section may be ordered by the court to make restitution to any victim of
40 fraud.

41 (i) Notation in Court Records. – In any case in which a person obtains identifying
42 information of another person in violation of this section, uses that information to commit
43 a crime in addition to a violation of this section, and is convicted of that additional crime,

1 the court records shall reflect that the person whose identity was falsely used to commit
2 the crime did not commit the crime."

3 Section 2. This act becomes effective December 1, 1999, and applies to
4 offenses committed on or after that date.